

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

AARON ANTHONY FLEMONS
ADC # 119749

PLAINTIFF

v.

No. 5:18-cv-73-DPM

GLENDY BOLDEN, Security Officer,
EARU, ADC; DARYL MORRIS, Security
Officer, EARU, ADC; WENDY KELLEY,
Director, ADC; KEITH WADDLE; and
DANIEL GOLDEN

DEFENDANTS

ORDER

1. Motion to reconsider, № 85, denied. Magistrate Volpe didn't clearly err or misapply the law in allowing Defendants an opportunity to respond to Flemons's newly sworn material.
2. On *de novo* review, the Court adopts Magistrate Judge Volpe's recommendation and supplemental recommendation, № 75 & № 84, and overrules Flemons's objections, № 78-79 & № 88. FED. R. CIV. P. 72(b)(3). The conditions Flemons encountered in punitive isolation—other inmates yelling, bright lights, foul smells, and occasional flooding—are unfortunate. But they don't differ so greatly from conditions in general population that they implicate a liberty interest for due process purposes. *Phillips v. Norris*, 320 F.3d 844, 847 (8th Cir. 2003); *see also Beverati v. Smith*, 120 F.3d 500, 503-04

(4th Cir. 1997). And without a showing of deliberate indifference, they don't support a stand-alone Eighth Amendment claim either.

Defendants' motion for summary judgment, № 62, is granted. Flemons's remaining federal claims will be dismissed with prejudice. The Court declines to exercise jurisdiction over Flemons's state law claims; they will be dismissed without prejudice.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

4 November 2019